



**Billing Code: 4520-43-P**

## **DEPARTMENT OF LABOR**

### **Mine Safety and Health Administration**

#### **Petitions for Modification of Application of Existing Mandatory Safety Standards**

**AGENCY:** Mine Safety and Health Administration, Labor.

**ACTION:** Notice.

**SUMMARY:** This notice is a summary of three petitions for modification submitted to the Mine Safety and Health Administration (MSHA) by the parties listed below.

**DATES:** All comments on the petitions must be received by MSHA's Office of Standards, Regulations, and Variances on or before [INSERT DATE 30 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** You may submit your comments, identified by "docket number" on the subject line, by any of the following methods:

1. Electronic Mail: [zzMSHA-comments@dol.gov](mailto:zzMSHA-comments@dol.gov). Include the docket number of the petition in the subject line of the message.

2. Facsimile: 202-693-9441.

3. Regular Mail or Hand Delivery: MSHA, Office of Standards, Regulations, and Variances, 201 12<sup>th</sup> Street South, Suite 4E401, Arlington, Virginia 22202-5452, Attention: Roslyn B. Fontaine, Acting Director, Office of Standards, Regulations, and Variances. Persons delivering documents are required to check in at the receptionist's desk in

Suite 4E401. Individuals may inspect copies of the petition and comments during normal business hours at the address listed above.

MSHA will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express on or before the deadline for comments.

**FOR FURTHER INFORMATION CONTACT:** S. Aromie Noe, Office of Standards, Regulations, and Variances at 202-693-9557 (voice), Noe.Song-Ae.A@dol.gov (email), or 202-693-9441 (facsimile). [These are not toll-free numbers.]

**SUPPLEMENTARY INFORMATION:** Section 101(c) of the Federal Mine Safety and Health Act of 1977 and Title 30 of the Code of Federal Regulations Part 44 govern the application, processing, and disposition of petitions for modification.

## **I. Background**

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or
2. The application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, the regulations at 30 CFR 44.10 and 44.11 establish the requirements for filing petitions for modification.

## **II. Petitions for Modification**

Docket Number: M-2019-067-C.

Petitioner: Peabody Twentymile Mining, LLC, 29515 Route County Road #27, Oak Creek, CO 80467.

Mine: Foidel Creek Mine, MSHA I.D. No. 05-03836, located in Routt County, Colorado.

Regulation Affected: 30 CFR 75.500(d) (Permissible electric equipment).

Modification Request: The petitioner requests an amended petition for modification of the existing standard, 30 CFR 75.500(d), as it relates to the use of an alternative method of respirable dust protection at the Foidel Creek mine. The operator previously submitted a petition to use a battery powered respirable protection unit called a *Versaflo™ TR-800 Intrinsically Safe Powered Air Purifying Respirator (PAPR)* in or inby the last open crosscut, which was published by the Federal Register on January 27, 2020. The operator submitted the amended petition below to include in the previous petition the use of a powered respirable protection unit called the *CleanSpace EX Powered Respirator* in or inby the last open crosscut under the same conditions as was proposed for the *Versaflo™ TR-800 Intrinsically Safe Powered Air Purifying Respirator (PAPR)* product.

The petitioner states that:

- a) Peabody currently uses the 3M Airstream helmet to provide miners with respirable protection against coal mine dust, a protection with long-term health benefits.
- b) 3M is discontinuing the Airstream helmet by June 1, 2020 due to disruption in their component supply, but it will offer the *Versaflo™ TR-800 Intrinsically Safe Powered Air Purifying Respirator (PAPR)*. February 2020 was the last opportunity to order the Airstream components.
- c) There are currently no replacement PAPRs that meet the MSHA standard for

permissibility.

d) The *Versaflo™ TR-800 Intrinsically Safe PAPR* qualifies as intrinsically safe in the US, Canada, and countries that accept the International Electrotechnical Commissions System for Certification to Standards Relating to Equipment for Use in Explosive Atmosphere (IECEx). However, it is not MSHA-approved and 3M is not pursuing MSHA approval.

e) Another type of PAPR called the *CleanSpace EX Power Unit*, which is manufactured by CleanSpace is also determined to be intrinsically safe under IECEx and other countries' standards. However, the *Cleanspace EX Power Unit* is not approved by MSHA and CleanSpace is not pursuing MSHA approval.

The petitioner proposes the following alternative method:

1) The operator is petitioning to use the *Versaflo™ TR-800 Intrinsically Safe PAPR* and the *CleanSpace EX Power Unit* in or inby the last open crosscut.

2) The equipment will be examined at least weekly by a qualified person according to 30 CFR 75.512-2 and examination results will be recorded weekly and may be expunged after one year.

3) The operator will comply with 30 CFR 75.323.

4) A qualified person under 30 CFR 75.151 will monitor for methane as is required in the mine.

5) Qualified miners will receive training regarding the information in the Decision and Order before using equipment in the relevant part of the mine. A record of the training will be kept and available upon request.

6) Within 60 days of the Decision and Order becoming finalized, the operator will submit

proposed revisions to 30 CFR 75.370, mine ventilation, to be approved under the 30 CFR Part 48 training plan by the Coal Mine Safety and Health District Manager. The revisions will specify initial and refresher training and when the revisions are conducted, the MSHA Certificate of Training (Form 5000-23) will be completed. Comments will be made on the certificate to note non-permissible testing equipment training.

7) The operator is responsible for all people, including contractors, using the above equipment. The petitioner asserts that the alternative method will guarantee no less than the same measure of protection afforded the miners under the mandatory standard.

Docket Number: M-2019-068-C.

Petitioner: Peabody Twentymile Mining, LLC, 29515 Route County Road #27, Oak Creek, CO 80467.

Mine: Foidel Creek Mine, MSHA I.D. No. 05-03836, located in Routt County, Colorado.

Regulation Affected: 30 CFR 75.507-1(a) (Electric equipment other than power-connection points; outby the last open crosscut; return air; permissibility requirements).

Modification Request: The petitioner requests an amended petition for modification of the existing standard, 30 CFR 75.507-1(a), as it relates to the use of an alternative method of respirable dust protection at the Foidel Creek mine. The operator previously submitted a petition to use a battery powered respirable protection unit called a *Versaflo™ TR-800 Intrinsically Safe Powered Air Purifying Respirator (PAPR)* in return airways, which was published by the Federal Register on January 27, 2020. The operator submitted the amended petition below to include in the previous petition the use of a powered respirable protection unit called the *CleanSpace EX Powered Respirator* in return airways under the same conditions as was proposed for the *Versaflo™ TR-800 Intrinsically Safe Powered Air Purifying Respirator (PAPR)* product.

The petitioner states that:

- a) Peabody currently uses the 3M Airstream helmet to provide miners with respirable protection against coal mine dust, a protection with long-term health benefits.
- b) 3M is discontinuing the Airstream helmet by June 1, 2020 due to disruption in their component supply but it will offer the *Versaflo™ TR-800 Intrinsically Safe Powered Air Purifying Respirator (PAPR)*. February 2020 was the last opportunity to order the Airstream components.
- c) There are currently no replacement PAPRs that meet the MSHA standard for permissibility.
- d) The Versaflo™ TR-800 Intrinsically Safe PAPR qualifies as intrinsically safe in the US, Canada, and countries that accept the International Electrotechnical Commissions System for Certification to Standards Relating to Equipment for Use in Explosive Atmosphere (IECEx). It is not MSHA-approved and 3M is not currently pursuing approval.
- e) Another type of PAPR called the *CleanSpace EX Power Unit*, which is manufactured by CleanSpace, is also determined to be intrinsically safe under IECEx and other countries' standards. However, the *Cleanspace EX Power Unit* is not approved by MSHA and CleanSpace is not pursuing MSHA approval.

The petitioner proposes the following alternative method:

- 1) The operator is petitioning to use the *Versaflo™ TR-800 Intrinsically Safe PAPR* and the *CleanSpace EX Power Unit* in return airways.
- 2) The equipment will be examined at least weekly by a qualified person according to 30 CFR 75.512-2 and examination results will be recorded weekly and may be expunged after one year.

- 3) The operator will comply with 30 CFR 75.323.
- 4) A qualified person under 30 CFR 75.151 will monitor for methane as is required in the mine.
- 5) Qualified miners will receive training regarding the information in the Decision and Order before using equipment in the relevant part of the mine. A record of the training will be kept and available upon request.
- 6) Within 60 days of the Decision and Order becoming finalized, the operator will submit proposed revisions to 30 CFR 75.370, mine ventilation, to be approved under the 30 CFR Part 48 training plan by the Coal Mine Safety and Health District Manager. The revisions will specify initial and refresher training and when the revisions are conducted, the MSHA Certificate of Training (Form 5000-23) will be completed. Comments will be made on the certificate to note non-permissible testing equipment training.
- 7) The operator is responsible for all people, including contractors, using the above equipment. The petitioner asserts that the alternative method will guarantee no less than the same measure of protection afforded the miners under the mandatory standard.

Docket Number: M-2019-069-C.

Petitioner: Peabody Twentymile Mining, LLC, 29515 Route County Road #27, Oak Creek, CO 80467.

Mine: Foidel Creek Mine, MSHA I.D. No. 05-03836, located in Routt County, Colorado.

Regulation Affected: 30 CFR 75.1002(a) (Installation of electric equipment and conductors; permissibility).

Modification Request: The petitioner requests an amended petition for modification of the existing standard, 30 CFR 75.1002(a), as it relates to the use of an alternative method of

respirable dust protection at the Foidel Creek mine. The operator previously submitted a petition to use a battery powered respirable protection unit called a *Versaflo™ TR-800 Intrinsically Safe Powered Air Purifying Respirator (PAPR)* within 150 feet of pillar workings and longwall faces, which was published by the Federal Register on January 27, 2020. The operator submitted the amended petition below to include in the previous petition the use of a powered respirable protection unit called the *CleanSpace EX Powered Respirator* within 150 feet of pillar workings and longwall faces under the same conditions as was proposed for the *Versaflo™ TR-800 Intrinsically Safe Powered Air Purifying Respirator (PAPR)* product.

The petitioner states that:

- a) Peabody currently uses the 3M Airstream helmet to provide miners with respirable protection against coal mine dust, a protection with long-term health benefits.
- b) 3M is discontinuing the Airstream helmet by June 1, 2020 due to disruption in their component supply but it will offer the *Versaflo™ TR-800 Intrinsically Safe Powered Air Purifying Respirator (PAPR)*. February 2020 was the last opportunity to order the Airstream components.
- c) There are currently no replacement PAPRs that meet the MSHA standard for permissibility.
- d) The *Versaflo™ TR-800 Intrinsically Safe PAPR* qualifies as intrinsically safe in the US, Canada, and countries that accept the International Electrotechnical Commissions System for Certification to Standards Relating to Equipment for Use in Explosive Atmosphere (IECEx). It is not MSHA-approved and 3M is not currently pursuing approval.
- e) Another type of PAPR called the *CleanSpace EX Power Unit*, which is manufactured by



CleanSpace, is also determined to be intrinsically safe under IECEx and other countries' standards. However, the *Cleanspace EX Power Unit* is not approved by MSHA and CleanSpace is not pursuing MSHA approval.

The petitioner proposes the following alternative method:

- 1) The operator is petitioning to use the *Versaflo™ TR-800 Intrinsically Safe PAPR* and the *CleanSpace EX Power Unit* within 150 feet of pillar workings and longwall faces.
- 2) The equipment will be examined at least weekly by a qualified person according to 30 CFR 75.512-2 and examination results will be recorded weekly and may be expunged after one year.
- 3) The operator will comply with 30 CFR 75.323.
- 4) A qualified person under 30 CFR 75.151 will monitor for methane as is required in the mine.
- 5) Qualified miners will receive training regarding the information in the Decision and Order before using equipment in the relevant part of the mine. A record of the training will be kept and available upon request.
- 6) Within 60 days of the Decision and Order becoming finalized, the operator will submit proposed revisions to 30 CFR 75.370, mine ventilation, to be approved under the 30 CFR Part 48 training plan by the Coal Mine Safety and Health District Manager. The revisions will specify initial and refresher training and when the revisions are conducted, the MSHA Certificate of Training (Form 5000-23) will be completed. Comments will be made on the certificate to note non-permissible testing equipment training.
- 7) The operator is responsible for all people, including contractors, using the above

equipment. The petitioner asserts that the alternative method will guarantee no less than the same measure of protection afforded the miners under the mandatory standard.

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Roslyn Fontaine,  
Acting Director,  
Office of Standards, Regulations, and Variances.  
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